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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,385	01/18/2005	Frank Dumont		2339

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Patent Operations  
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EXAMINER

YENKE, BRIAN P

ART UNIT	PAPER NUMBER
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2622

MAIL DATE	DELIVERY MODE
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09/04/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/521,385

**Applicant(s)**

DUMONT ET AL.

**Examiner**

BRIAN P. YENKE

**Art Unit**

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on *Appeal Brief (05/18/09)*.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-9 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/CDC)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### 1207.04 [R-3] < Reopening of Prosecution After Appeal

The examiner may, with approval from the supervisory patent examiner, reopen prosecution to enter a new ground of rejection after appellant's brief or reply brief has been filed. The Office action containing a new ground of rejection may be made final if the new ground of rejection was (A) necessitated by amendment, or (B) based on information presented in an information disclosure statement under 37 CFR 1.97(c) where no statement under 37 CFR 1.97(e) was filed. See MPEP § 706.07(a). >Any after final amendment or affidavit or other evidence that was not entered before must be entered and considered on the merits.<

1. In view of the Appeal Brief filed on 10/15/08, PROSECUTION IS HEREBY REOPENED.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

The examiner has withdrawn the finality of the previous action (01/29/09) and has incorporated additional references into the rejection in view of the applicant's arguments. Specifically, the applicant

argued that neither AAPA or Dean disclosed the detection of ancillary information in a given time window. Although the examiner previously stated that the inputs (analog, CVBS, digital MPEG-2) include a vertical blanking interval which may include close-caption information, teletext etc..., the examiner has now incorporated, Isoe, US 5,671,019 which discloses a system which switches between the main image (active period) and a sub-image/2nd signal (inactive period, meeting the given time window (non-active portion) for caption information(ancillary data). The examiner notes that given the broadest reasonable interpretation, the claims do not explicitly recite the first and 2<sup>nd</sup> signal are generated exclusively from the first signal, thus the rejection as presented below. Wherein the 2<sup>nd</sup> analog signal may be generated by a lack of output (non-active portion of the 1<sup>st</sup> signal), meeting the claims as currently recited.

The examiner also notes that the disclosure of the application (page 1, 3rd para) that "some digital encoders do not take into account"...(VBI). The examiner requests clarification regarding the encoders that do take into account such information, in view of the prior art and pending claims, in order to expedite prosecution.

*Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 rejected under 35 U.S.C. 103(a) as being unpatentable over EP-1128673 (Applicant's Admitted Prior Art (AAPA) in view of Dean et al., US 5,914,757 and Isoe et al., US 5,671,019.

In considering claims 1 and 7,

- a) the claimed a digital encoder...is met by encoder 116 (Figs 2c/d)
- b) the claimed a digital decoder is met by decoder 122 (Figs 2c/d)

However, AAPA does not explicitly recite synchronizing the second analog to the first analog signal, nor the determining the occurrence of said time window.

The concept of synchronization two or more signals is known in order to provide a suitable display. Since various signals, typically include different offset/frequency/timing intervals (i.e. active/inactive) video they must be synchronized in order to be displayed alternatively or at the same time (i.e. PIP). This concept is also evidenced by Dean, US 5,914,757 which discloses the feature of synchronizing multiple video and graphics sources wherein the signals are synchronized by using the vertical and horizontal sync signals (via sync control 220/signal 102) (Fig 2).

Thus it would have been obvious to one of ordinary skill in the art to modify AAPA with that of Dean in order to provide the advantages as noted above.

Regarding the determining the occurrence of the time window, Dean discloses that the synchronous information (i.e. vertical, horizontal and color) are used to sync the various video signals and graphic sources (Fig 2). Based upon applicant's Appeal Brief arguments, the examiner will evidence the feature via Isoe et al., US 5,671,019 which discloses switching between a main signal (active portion) and a second signal (the non-active portion of the signal) which are both displayed on an active display screen (Fig 4b) where the main signal is the A (main signal) and the caption is for the B signal (2<sup>nd</sup> signal).

Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to modify AAPA which discloses a synchronized video apparatus, by synchronizing such signals by using the timing information from the respective video signals as done by.

In considering claims 2-6,

The combination above discloses the features of a sync separator/means for synchronizing wherein the signals derived from the sources would be high/low or not according to the received waveform/pattern. Regarding the CVBS signal AAPA discloses the reception of such signal. As shown in Dean, the sync control 220 is based upon receiving sync control information, horizontal and/or vertical sync information.

In considering claim 8,

The system includes a selector (mux 118) which is connected (coupled) to the display via the decoder.

In considering claim 9,

Refer to claim 1 above.

***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Yenke whose telephone number is (571)272-7359. The examiner work schedule is Monday-Thursday, 0730-1830 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, David L. Ometz, can be reached at (571)272-7593.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

**(571)-273-8300**

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703)305-HELP.

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(FAX) 703-305-7786

(TDD) 703-305-7785

An automated message system is available 7 days a week, 24 hours a day providing informational responses to frequently asked questions and the ability to order certain documents. Customer service representatives are

available to answer questions, send materials or connect customers with other offices of the USPTO from 8:30 a.m. - 8:00p.m. EST/EDT, Monday-Friday excluding federal holidays.

For other technical patent information needs, the Patent Assistance Center can be reached through customer service representatives at the above numbers, Monday through Friday (except federal holidays) from 8:30 a.m. to 5:00 p.m. EST/EDT.

The Patent Electronic Business Center (EBC) allows USPTO customers to retrieve data, check the status of pending actions, and submit information and applications. The tools currently available in the Patent EBC are Patent Application Information Retrieval (PAIR) and the Electronic Filing System (EFS). PAIR (<http://pair.uspto.gov>) provides customers direct secure access to their own patent application status information, as well as to general patent information publicly available. EFS allows customers to electronically file patent application documents securely via the Internet. EFS is a system for submitting new utility patent applications and pre-grant publication submissions in electronic publication-ready form. EFS includes software to help customers prepare submissions in extensible Markup Language (XML) format and to assemble the various parts of the application as an electronic submission package. EFS also allows the submission of Computer Readable Format (CRF) sequence listings for pending biotechnology patent applications, which were filed in paper form.

/Lin Ye/  
Supervisory Patent Examiner, Art Unit 2622

/BRIAN P. YENKE/  
Primary Examiner, Art Unit 2622

B.P.Y  
01 September 2009

